

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

SANDRA S. WHETZEL,

Plaintiff,

vs.

Civil Action No.

METROPOLITAN LIFE INSURANCE
COMPANY,

Defendant.

COMPLAINT

AND NOW, comes the Plaintiff, SANDRA S. WHETZEL, by and through her attorney, Brian Patrick Bronson, Esquire, and the law firm of QuatriniRafferty, P.C., and files this Complaint in Civil Action in the Federal District Court for the Western District of Pennsylvania, stating as follows:

INTRODUCTION

NATURE OF THIS ACTION

1. This action is filed pursuant to the Employment Retirement Income Security Act of 1974, 29 U.S.C. §1001 et seq. (hereinafter referred to as "ERISA") and the Declaratory Judgment Act, 28 U.S.C. §§2201, 2202. Ms. Sandra S. Whetzel (hereinafter Plaintiff) is a participant in an employee welfare benefit plan (hereinafter referred to as "The Plan") which is administered pursuant to an insurance policy issued by Metropolitan Life Insurance Company. The Plan is governed by ERISA. Plaintiff is a beneficiary under

the Plan. This Complaint challenges the Plan's unlawful practice of failing to provide Plaintiff with the timely payment of Long-Term Disability benefits under the Plan. Specifically, Plaintiff is filing this action to enforce her rights under the Plan and for attorney fees, interest and costs as provided by ERISA.

JURISDICTION AND VENUE

2. This Court has Original Jurisdiction to hear this complaint and to adjudicate the claims herein pursuant to 28 U.S.C. §1331 and 29 U.S.C. §1132.

3. Venue is proper in this Court, as the Plan was administered in the Western District of Pennsylvania.

PARTIES

4. The Plaintiff, Sandra S. Whetzel resides at 1133 Connellsville Road, Fayette City, Fayette County, Pennsylvania 15438.

5. The Defendant, Metropolitan Life Insurance Company, is the Claims Administrator of Long Term Disability claims and is located at P.O. Box 14590, Lexington, Kentucky 40511.

6. Defendants administered employee benefits, mainly Long Term Disability benefits, under the Plan in accordance with the insurance policy issued to the Plan by the Claims Administrator.

STATEMENT OF FACTS

7. Ms. Whetzel was employed by Select Medical Corporation as a Customer Service Representative. Ms. Whetzel's last date of work for her employer was April 3, 2014.

8. The Claimant was unable to work after April 3, 2014, due to diagnoses of Glaucoma, Diabetes Mellitus - Type II, Hypertension, Gastroesophageal Reflux, Dermatitis/Infection, and a Malunion of her foot.

9. The Defendant paid the Plaintiff Long Term Disability benefits from October 5, 2014 through June 20, 2015.

10. By letter dated June 22, 2015, the Defendant informed the Plaintiff that her claim for continuing Long Term Disability benefits under the Plan was denied.

11. The Plaintiff filed a timely, responsive appeal from the denial of her Long Term Disability benefits, which was acknowledged by the Defendant by letter dated March 9, 2016.

12. By letter dated July 29, 2016, the Defendant affirmed their decision to deny Ms. Whetzel's claim for continued Long Term Disability benefits under the Plan.

13. The Plaintiff's conditions of Depression/Anxiety, Pancreatitis, and Sinusitis are pre-existing conditions under the Policy. The Plaintiff is not entitled to or claiming benefits based upon these diagnoses.

14. The Plaintiff filed an appeal dated December 3, 2015. Following the submission of this appeal, and under an extension granted to her by the Defendant, the Plaintiff submitted additional supportive information by way of a Residual Functional Capacity form completed by Dr. Joseph Porreca; medical records from Dr. Samuel

D'Onofrio; interrogatories from Dr. D'Onofrio; medical records from Dr. Porreca; and medical records from Dr. Anthony DiGioia.

15. The Plaintiff has exhausted all mandatory administrative rights under the Plan.

CAUSE OF ACTION

Employment Retirement Income Security Act of 1974, 29 U.S.C. §1001 et seq.

16. Paragraphs 1 through 15 are incorporated herein as if set forth at length.

17. Plaintiff has exhausted all administrative remedies and mandatory appeals as required by the Plan and ERISA 29 U.S.C. §1001 et seq.

18. At all times relevant to this action, the Plaintiff has been unable to perform, due to sickness or accidental injury, the material duties of her own occupation or any other gainful occupation solely due to non-pre-existing conditions. Mainly, the Plaintiff was unable to perform her own occupation or any other occupation due to her symptoms of Glaucoma, Diabetes Mellitus - Type II, Hypertension, Gastroesophageal Reflux, Pain, Dermatitis and Infection, and a Malunion of her foot.

19. The Defendant ignored pertinent medical evidence and failed to evaluate all of the evidence of record, including the medical of Plaintiff's treating physicians.

20. The Defendant did not conduct a full and fair review of the claim as required by ERISA.

21. The Defendant failed to actively engage in the appeals process by voluntarily failing to attend and cooperate with the deposition of Ms. Whetzel, which was necessary given Defendant's denial of the claim.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs respectfully prays that the Court issue an Order:

- (1) Awarding, declaring or otherwise providing Plaintiff all relief to which Plaintiff is entitled under ERISA Section 502 Paragraph (a) 29 U.S.C. Section 1132(a);
- (2) Awarding pre and post judgment interests;
- (3) Awarding Plaintiff the costs of this action and reasonable attorneys fees;
- (4) Awarding such other relief as may be just and reasonable.

/s/ Brian Patrick Bronson, Esquire
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Dated: January 16, 2017.